

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LITIGATION	:	Master Docket: Misc. No. 21-mc-1230-JFC
	:	
	:	MDL No. 3014
	:	
This Document Relates to:	:	SHORT FORM COMPLAINT FOR
	:	PERSONAL INJURIES, DAMAGES,
Rebecca Watson, Case No. 5:21- cv-01650-JGB-SHK	:	AND DEMAND FOR JURY TRIAL

Plaintiff(s) incorporate(s) by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the “Master Long Form Complaint”). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint.

Plaintiff(s) further allege(s) as follows:

I. DEFENDANTS

1. Plaintiff(s) name(s) the following Defendants in this action:

- ☒ Koninklijke Philips N.V.
- ☒ Philips North America LLC.
- ☒ Philips RS North America LLC.

_____ Philips Holding USA Inc.

_____ Philips RS North America Holding Corporation.

_____ Polymer Technologies, Inc.

_____ Polymer Molded Products LLC.

II. PLAINTIFF(S)

2. Name of Plaintiff(s):

Rebecca Watson

3. Name of spouse of Plaintiff (if loss of consortium claim is being made):

N/A

4. Name and capacity (*i.e.*, executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:

N/A

5. State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased, residence at the time of death):

N/A

III. DESIGNATED FORUM

6. Identify the forum (United States District Court and Division) in which the Plaintiff would have filed in the absence of direct filing:

United States District Court for the Central District of California
(Eastern Division-Riverside)

IV. USE OF A RECALLED DEVICE

7. Plaintiff used the following Recalled Device(s):

<input type="checkbox"/> <i>E30 (Emergency Use Authorization)</i> <input checked="" type="checkbox"/> <i>DreamStation ASV</i> <input type="checkbox"/> <i>DreamStation ST, AVAPS</i> <input type="checkbox"/> <i>SystemOne ASV4</i> <input type="checkbox"/> <i>C-Series ASV</i> <input type="checkbox"/> <i>C-Series S/T and AVAPS</i> <input type="checkbox"/> <i>OmniLab Advanced +</i> <input type="checkbox"/> <i>SystemOne (Q-Series)</i> <input type="checkbox"/> <i>DreamStation</i> <input type="checkbox"/> <i>DreamStation Go</i> <input type="checkbox"/> <i>Dorma 400</i>	<input type="checkbox"/> <i>Dorma 500</i> <input type="checkbox"/> <i>REMstar SE Auto</i> <input type="checkbox"/> <i>Trilogy 100</i> <input type="checkbox"/> <i>Trilogy 200</i> <input type="checkbox"/> <i>Garbin Plus, Aeris, LifeVent</i> <input type="checkbox"/> <i>A-Series BiPAP Hybrid A30 (not marketed in U.S.)</i> <input type="checkbox"/> <i>A-Series BiPAP V30 Auto</i> <input type="checkbox"/> <i>A-Series BiPAP A40</i> <input type="checkbox"/> <i>A-Series BiPAP A30</i> <input type="checkbox"/> <i>Other Philips Respironics Device; if other, identify the model:</i> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/>
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V. INJURIES

8. Plaintiff alleges the following physical injuries as a result of using a Recalled Device together with the attendant symptoms and consequences associated therewith:

- ☒ COPD (new or worsening)
- ☐ Asthma (new or worsening)
- ☐ Pulmonary Fibrosis
- ☐ Other Pulmonary Damage/Inflammatory Response
- ☒ Cancer Dysplasia (inner side of mouth) (specify cancer)

☐ Kidney Damage

☐ Liver Damage

☐ Heart Damage

☐ Death

☒ Other (specify) Frequent headaches and migraines, chronic bronchitis, sinus infections, constant coughing and runny nose, pneumonia.

VI. CAUSES OF ACTION/DAMAGES

9. As to Koninklijke Philips N.V., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

☒ Count I: Negligence

☒ Count II: Strict Liability: Design Defect

☐ Count III: Negligent Design

☒ Count IV: Strict Liability: Failure to Warn

☐ Count V: Negligent Failure to Warn

☐ Count VI: Negligent Recall

☐ Count VII: Battery

☒ Count VIII: Strict Liability: Manufacturing Defect

☐ Count IX: Negligent Manufacturing

☒ Count X: Breach of Express Warranty

☒ Count XI: Breach of the Implied Warranty of Merchantability

☐ Count XII: Breach of the Implied Warranty of Usability

☐ Count XIII: Fraud

☒ Count XIV: Negligent Misrepresentation

☐ Count XV: Negligence Per Se

_____ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law

_____ Count XVII: Unjust Enrichment

_____ Count XVIII: Loss of Consortium

_____ Count XIX: Survivorship and Wrongful Death

_____ Count XX: Medical Monitoring

☒ Count XXI: Punitive Damages

☒ Count XXII: Other [specify below]

Fraudulent Misrepresentation, Fraud by Omission

10. As to Philips North America LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

☒ Count I: Negligence

☒ Count II: Strict Liability: Design Defect

_____ Count III: Negligent Design

☒ Count IV: Strict Liability: Failure to Warn

_____ Count V: Negligent Failure to Warn

_____ Count VI: Negligent Recall

_____ Count VII: Battery

☒ Count VIII: Strict Liability: Manufacturing Defect

_____ Count IX: Negligent Manufacturing

☒ Count X: Breach of Express Warranty

☒ Count XI: Breach of the Implied Warranty of Merchantability

- ☐ Count XII: Breach of the Implied Warranty of Usability
- ☐ Count XIII: Fraud
- ☒ Count XIV: Negligent Misrepresentation
- ☐ Count XV: Negligence Per Se
- ☐ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- ☐ Count XVII: Unjust Enrichment
- ☐ Count XVIII: Loss of Consortium
- ☐ Count XIX: Survivorship and Wrongful Death
- ☐ Count XX: Medical Monitoring
- ☒ Count XXI: Punitive Damages
- ☒ Count XXII: Other [specify below]

Fraudulent Misrepresentation, Fraud by Omission

11. As to Philips RS North America LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ☒ Count I: Negligence
- ☒ Count II: Strict Liability: Design Defect
- ☐ Count III: Negligent Design
- ☒ Count IV: Strict Liability: Failure to Warn
- ☐ Count V: Negligent Failure to Warn
- ☐ Count VI: Negligent Recall
- ☐ Count VII: Battery

- ☒ Count VIII: Strict Liability: Manufacturing Defect
- ☐ Count IX: Negligent Manufacturing
- ☒ Count X: Breach of Express Warranty
- ☒ Count XI: Breach of the Implied Warranty of Merchantability
- ☐ Count XII: Breach of the Implied Warranty of Usability
- ☐ Count XIII: Fraud
- ☒ Count XIV: Negligent Misrepresentation
- ☐ Count XV: Negligence Per Se
- ☐ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- ☐ Count XVII: Unjust Enrichment
- ☐ Count XVIII: Loss of Consortium
- ☐ Count XIX: Survivorship and Wrongful Death
- ☐ Count XX: Medical Monitoring
- ☒ Count XXI: Punitive Damages
- ☒ Count XXII: Other [specify below]

Fraudulent Misrepresentation, Fraud by Omission

12. As to Philips Holding USA Inc., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ☐ Count I: Negligence
- ☐ Count II: Strict Liability: Design Defect
- ☐ Count III: Negligent Design

- _____ Count IV: Strict Liability: Failure to Warn
- _____ Count V: Negligent Failure to Warn
- _____ Count VI: Negligent Recall
- _____ Count VII: Battery
- _____ Count VIII: Strict Liability: Manufacturing Defect
- _____ Count IX: Negligent Manufacturing
- _____ Count X: Breach of Express Warranty
- _____ Count XI: Breach of the Implied Warranty of Merchantability
- _____ Count XII: Breach of the Implied Warranty of Usability
- _____ Count XIII: Fraud
- _____ Count XIV: Negligent Misrepresentation
- _____ Count XV: Negligence Per Se
- _____ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- _____ Count XVII: Unjust Enrichment
- _____ Count XVIII: Loss of Consortium
- _____ Count XIX: Survivorship and Wrongful Death
- _____ Count XX: Medical Monitoring
- _____ Count XXI: Punitive Damages
- _____ Count XXII: Other [specify below]

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13. As to Philips RS North America Holding Corporation, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries,

Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- _____ Count I: Negligence
- _____ Count II: Strict Liability: Design Defect
- _____ Count III: Negligent Design
- _____ Count IV: Strict Liability: Failure to Warn
- _____ Count V: Negligent Failure to Warn
- _____ Count VI: Negligent Recall
- _____ Count VII: Battery
- _____ Count VIII: Strict Liability: Manufacturing Defect
- _____ Count IX: Negligent Manufacturing
- _____ Count X: Breach of Express Warranty
- _____ Count XI: Breach of the Implied Warranty of Merchantability
- _____ Count XII: Breach of the Implied Warranty of Usability
- _____ Count XIII: Fraud
- _____ Count XIV: Negligent Misrepresentation
- _____ Count XV: Negligence Per Se
- _____ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- _____ Count XVII: Unjust Enrichment
- _____ Count XVIII: Loss of Consortium
- _____ Count XIX: Survivorship and Wrongful Death
- _____ Count XX: Medical Monitoring
- _____ Count XXI: Punitive Damages

_____ Count XXII: Other [specify below]

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13. As to Polymer Technologies, Inc., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

_____ Count I: Negligence

_____ Count II: Strict Liability: Design Defect

_____ Count III: Negligent Design

_____ Count IV: Strict Liability: Failure to Warn

_____ Count V: Negligent Failure to Warn

_____ Count VIII: Strict Liability: Manufacturing Defect

_____ Count IX: Negligent Manufacturing

_____ Count XIII: Fraud

_____ Count XIV: Negligent Misrepresentation

_____ Count XVII: Unjust Enrichment

_____ Count XVIII: Loss of Consortium

_____ Count XIX: Survivorship and Wrongful Death

_____ Count XX: Medical Monitoring

_____ Count XXI: Punitive Damages

_____ Count XXII: Other [specify below]

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14. As to Polymer Molded Products LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

_____ Count I: Negligence

_____ Count II: Strict Liability: Design Defect

_____ Count III: Negligent Design

_____ Count IV: Strict Liability: Failure to Warn

_____ Count V: Negligent Failure to Warn

_____ Count VIII: Strict Liability: Manufacturing Defect

_____ Count IX: Negligent Manufacturing

_____ Count XIII: Fraud

_____ Count XIV: Negligent Misrepresentation

_____ Count XVII: Unjust Enrichment

_____ Count XVIII: Loss of Consortium

_____ Count XIX: Survivorship and Wrongful Death

_____ Count XX: Medical Monitoring

_____ Count XXI: Punitive Damages

_____ Count XXII: Other [specify below]

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15. If additional claims against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial are alleged above, the additional facts, if any, supporting these allegations must be pleaded. Plaintiff(s) assert(s) the following additional factual allegations against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial:

N/A

16. Plaintiff(s) contend(s) that additional parties may be liable or responsible for Plaintiff(s)' damages alleged herein. Such additional parties, who will be hereafter referred to as Defendants, are as follows (must name each Defendant and its citizenship):

N/A

17. Plaintiff(s) assert(s) the following additional claims and factual allegations against other Defendants named in Paragraph 16 above:

N/A

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date: December 12, 2022

Kristy M. Arevalo
Attorney
MCCUNE LAW GROUP, APC